

2/07/2009

To whom it may concern:

I am a student, I was unable
to get appeared at the bank!

Loan Max helped me with all
of my bills and help me eat!

Without them I may have had
some major back falls!

I made the decision to walk in
the door and do business with
them! They are great, especially
Anna Gilham-Craeyen!

Barbara C. Richards

I Johnathan Bailey Am very Glad
loan max is avail to the public, I needed
money now. so I went to loan max.
loan max did not come to me. I Am
very Great full to Anna & loan max for
All they do

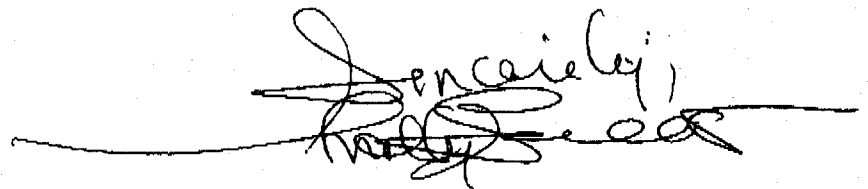
Johnathan Bailey

2-7-09

2/06/09

To whom it May Concern,

I am writing this letter to inform you how much I appreciate the employees and services of Loan Max. I have many health issues, and quite honestly if their service was not available, I would have a much more difficult time. You see, their loans assist me with my medical bills, medications, and money for gas to get back and forth to my doctors. I know that their fees are a little higher than most places, but if their service was not available I don't know what I would have done under these circumstances.

Sincerely,


2-16-09

To whom this may concern:

I Josh Wallace use the title loan services to help me get by month to month, because with my job I receive a check once a month, so the money I receive from Loan Max is used to help pay for my fuel or parts for the car I use for work.

Josh Wallace

Josh Wallace

ADMINISTRATIVE RULES OF MONTANA

ADMINISTRATION

BANKING AND FINANCIAL INSTITUTIONS

Subchapter 14

Title Lending (effective 09/26/2008)

2.59.1401 DEFINITIONS For the purposes of the Montana Title Loan Act and this subchapter, the following definitions apply:

(1) "Borrower" in the case of jointly owned property, means all owners of the property listed on the title.

(2) "Commissioner" means the Commissioner of Banking and Financial Institutions provided for in 32-1-211, MCA.

(3) "Department" means the Department of Administration established in 2-15-1001, MCA, and includes the commissioner of the Division of Banking and Financial Institutions.

(4) "Original title loan" means the title loan agreement which is the basis for taking possession of the title and perfecting a security interest in the titled property.

(5) "Fraud or financial dishonesty" includes, but is not limited to:

(a) a conviction, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a conviction that involves robbery, illegal gambling, receiving stolen property, counterfeiting, extortion, check, credit card, or computer violations set forth in criminal laws, deception, fraud, theft, embezzlement, defrauding a creditor, issuing a bad check, deceptive practices, deceptive business practices, misappropriation of funds or property, misrepresentation, omission of material facts, unauthorized use of property, forgery, identity theft, or money laundering.

(6) "Fraudulent or dishonest financial dealings" includes, but is not limited to:

(a) a civil judgment, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a civil judgment that involves deception, fraud, conversion, misappropriation of funds, misrepresentation, omission of material facts, forgery, unauthorized use of money or property, failure to pay taxes, or bad checks.

(7) "Redemption date" is the maturity date of the original title loan and any subsequent renewals.

(8) "Renewal of a loan" means an agreement whereby the licensee agrees to extend the due date beyond the term of the original title loan without releasing the security interest on the titled property.

(9) "Restitution" may include, but is not limited to, refunds of any or all the interest and fees paid by the borrower and voiding any lien or security interest obtained in violation of the Title Loan Act.

(10) "Unencumbered title" or "clear title" means a valid state-issued certificate of title that has no liens or encumbrances attached. (History: 31-1-802, MCA; IMP, 31-1-803, 31-1-804, 31-1-805, 31-1-810, 31-1-811, 31-1-812, 31-1-815, 31-1-816, 31-1-818, 31-1-820, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1402 LICENSING AND APPLICATION REQUIREMENTS -

EXCEPTIONS (1) Except for those entities listed in (2), all persons or lenders must obtain a license under this rule in order to issue title loans. Persons or lenders that are licensed under the Consumer Loan Act, 32-5-101, MCA, or Deferred Deposit Loan Act, 31-1-701, MCA, are not exempt from the licensing requirements of 31-1-801, MCA.

(2) The following are exempt from the licensing requirements:

- (a) federal and state chartered banks;
- (b) federal and state chartered savings and loans;
- (c) federal and state chartered credit unions;
- (d) trust companies; and
- (e) investment companies.

(3) All existing or proposed licensees shall file with the department an application in order to engage in title lending.

(4) An application must be in writing on a form prescribed by the department and verified under oath. Application forms are available from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(5) In addition to any other information that may be required by 31-1-805, MCA, the application shall contain the following information in the application format prescribed by the department:

- (a) biographical data concerning the applicant, the applicant's owners, parent company, affiliates, or subsidiaries as specified by the department;
- (b) information concerning the applicant's character, experience, qualifications;
- (c) financial information about the applicant; and
- (d) the interest calculation tool or program that the applicant will use to calculate interest on title loans and interest rate reductions that occur beginning with the sixth renewal of a title loan. (History: 31-1-802, MCA; IMP, 31-1-804, 31-1-805, 31-1-811, 31-1-816, 31-1-817, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1403 TITLE LOAN DESIGNATION (1) The department designates that a title loan is:

(a) a nonpurchase money loan secured by an unencumbered state issued title to personal property;

(b) on which the annual percentage rate exceeds 35%; and

(c) the lender does not take physical possession of the titled personal property.

(2) If a loan meets the criteria set forth in (1), the entity making it must be licensed as provided in Title 31, chapter 1, part 8, MCA, and must comply with the provisions of Title 31, chapter 1, part 8, MCA, and these rules, except as provided in 31-1-802(5), MCA. (History: 31-1-802, MCA; IMP, 31-1-803, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1404 NOTIFICATION TO THE DEPARTMENT (1) The licensee shall notify the department by the close of business on the business day following:

- (a) a change in the physical location of the office;
- (b) any change in the phone number of the business;
- (c) a change in the nature of the business;
- (d) any change in the board of directors, principal officers, trustees, or limited liability company managers or member-managers;
- (e) the acquisition or disposition of another company;
- (f) any civil action involving fraud or dishonesty filed against the licensee;
- (g) any criminal charge involving fraud or financial dishonesty filed against the licensee;
- (h) any change which would cause the department not to issue a license, if it had occurred before licensure; and
- (i) the addition of other business to be conducted at the location. (History: 31-1-802, MCA; IMP, 31-1-805, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1405 OWNERSHIP CHANGE (1) In the event there is a change of ownership in a licensee, the owner(s) shall file with the department an application for a new license. The applicant may not make any loans until they have been appropriately licensed.

(2) For purposes of this rule, a person shall be deemed to own the licensee if the person, directly or indirectly, or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with the power to vote, or holds proxies representing 25% or more of the voting shares or rights of such company, or controls in any manner the election or appointment of 25% of the directors, managers, member-managers, or trustees of a company, or is a general partner in or has contributed 25% or more of the capital of the company. (History: 31-1-802, MCA; IMP, 31-1-805, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1406 EXAMINATION OF TITLE LENDERS (1) The department may conduct an examination of each title loan licensee's lending operations to ensure compliance with both statutes and administrative rules.

(2) The department may examine the records or any location where records may be found of any licensee or a person who may be in violation of Title 31, chapter 1, part 8 or these rules.

(3) The examination shall consist of a comprehensive review of the records, operations and affairs of the licensee. The review shall include, but is not limited to, inquiry into:

- (a) accounting and financial records;
- (b) records of the borrower's files including:
 - (i) evidence of required disclosures;
 - (ii) use of the loan agreement on file with the department; and
 - (iii) assurance of continued bonding.

(4) The department shall provide the licensee with an oral and written report which details the areas examined and any deficiencies found. (History: 31-1-802, MCA; IMP, 31-1-803, 31-1-810, 31-1-815, 31-1-816, 31-1-817, 31-1-818, 31-1-819, 31-1-820, 31-1-821, 31-1-822, 31-1-825, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1407 RESCINDED LOANS (1) The licensee shall keep all records required by 31-1-821, MCA, for rescinded loans in a separate file and retain those records according to records retention schedules as set by state or federal law, whichever is longer. (History: 31-1-802, MCA; IMP, 31-1-815, 31-1-816, 31-1-821, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1408 FAILURE TO CORRECT DEFICIENCIES (1) The department may suspend or revoke a license of an entity as provided in 31-1-811, MCA, that does not correct the deficiencies found by the department after an examination within the time frame granted by the department. (History: 31-1-802, MCA; IMP, 31-1-810, 31-1-811, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1409 DURATION OF LOANS – INTEREST – EXTENSIONS (1) Each original title loan must have a term of 30 days.

(2) The loan agreement may provide for 30-day renewal periods beyond the original term if principal and interest are not paid in full on the maturity date. Any 30-day renewal period must be clearly stated on the face of the loan agreement in bold, capital letters. In addition to any other disclosures that may be required by law, licensees must provide the borrower, in the original title loan agreement or by addendum, a statement of the principal and interest which would be due over a six-month period if the borrower fails to make any payments as set forth in Illustration A. This chart is illustrative only. A borrower must make a payment toward the principal or interest every 60 days. However, for the sake of illustration, this chart assumes no such payment is made. If the borrower does not make a payment toward principal or interest within 60 days, the loan is placed into default. Such statement must be initialed by the borrower at the time of the original loan and include the borrower's affirmation that the borrower has been shown and read the statement.

Illustration A

	Principal	Interest Per Month at 25%	Accrued Interest at 25%	Total Amount Due
Original Loan	\$500.00	\$125.00	\$125.00	\$625.00
Renewal 1	\$500.00	\$125.00	\$250.00	\$750.00
Renewal 2	\$500.00	\$125.00	\$375.00	\$875.00
Renewal 3	\$500.00	\$125.00	\$500.00	\$1,000.00
Renewal 4	\$500.00	\$125.00	\$625.00	\$1,125.00
Renewal 5	\$500.00	\$125.00	\$750.00	\$1,250.00
Renewal 6	\$500.00	\$125.00	\$875.00	\$1,375.00

(3) On the business day following either the end of the original 30-day loan period, or the end of any agreed upon 30-day renewal period, licensees must provide, in person or by mail at the borrower's last known address, a statement disclosing the finance charges that will accrue with the renewal, the new maturity date of the loan, the amount financed, and the annual percentage rate (APR). Licensees may not collect interest on the renewal without proof of having provided the borrower such a statement.

(4) Interest may not compound from one renewal to another.

(5) Interest accrues on a daily basis.

(6) Interest may not be collected before it accrues.

(7) Interest may not be charged on fees.

(8) A licensee may not continue to accrue interest after the expiration of a title loan agreement, after the period of renewal, or after the redemption date of the loan.

(9) A licensee shall not extend or grant any additional credit other than that which was granted in the original title loan agreement without first requiring full payment of all principal and interest due on the original title loan and all subsequent renewals, and releasing the security interest in the titled property.

(10) Licensees may not issue a new original loan to pay off the previous original loan.

(11) Licensees shall apply payments to fees, interest, and principal in the following order:

(a) first, to accrued fees;

2.59.1410 RENEWALS - REDUCTION OF PRINCIPAL (1) In the event that a borrower fails to reduce the principal and interest as required in 31-1-816, MCA, a licensee at its option may either:

- (a) declare the full outstanding principal and interest due and payable; or
- (b) reduce the amount of principal balance used to calculate interest by 10% every 30 days beginning 180 days from the beginning of the original title loan agreement. In such event, the licensee must comply with all the requirements of ARM 2.59.1409 for renewals.

(2) Under no circumstances may a licensee charge interest or fees beyond the fifteenth renewal. (History: 31-1-802, MCA; IMP, 31-1-816, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1411 DEPARTMENT'S COST OF ADMINISTRATIVE ACTION

(1) The department may order reimbursement of its costs of bringing the administrative action which may include but are not limited to:

- (a) examiner time charges;
- (b) department legal counsel time charges;
- (c) administrative law judge charges;
- (d) court reporter costs;
- (e) transcription fees;
- (f) document preparation fees;
- (g) other hearing costs;
- (h) costs of subpoenaing documents;
- (i) any other cost is incurred by the department in bringing the action; and
- (j) travel costs. (History: 31-1-802, MCA; IMP, 31-1-811, MCA; NEW, 2008

MAR p. 1571, Eff. 8/1/08.)

2.59.1412 EXAMINATION FEES (1) If any examination fees are not paid within 30 days of the department's mailing of an invoice, the license of the title lender may be suspended or revoked as provided by 31-1-811, MCA, until the fees are paid. (History: 31-1-802, MCA; IMP, 31-1-810, 31-1-811, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1413 REPORTS (1) The following must be reported to the department:
(a) any instances of theft within ten days of the discovery of the theft;
(b) any change in managers within ten days of each occurrence; and
(c) all questionnaires must be answered within ten days of the exit of the examination. (History: 31-1-802, MCA; IMP, 31-1-810, 31-1-815, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1414 SCHEDULE OF CHARGES (1) Every licensee under the Montana Title Loan Act shall file with the department in duplicate, at the time of filing application for such license or license renewal, a full and accurate schedule of all charges, fees, and costs as follows:

- (a) the interest rate for each 30-day period;
- (b) nonsufficient fund fees;
- (c) lien recording and release fees;
- (d) examples of typical loan amounts including principal, interest and fees;

and

(e) a statement that storage fees and repossession costs may be added to the amount due based upon actual cost of these services to the licensee.

(2) Licensees shall display such schedule prominently in each licensed place of business where loans are made or negotiated so as to be easily readable by borrowers and prospective borrowers. (History: 31-1-802, MCA; IMP, 31-1-816, 31-1-817, 31-1-818, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1415 REQUIRED RECORD KEEPING (1) Each licensee shall keep the following records, accounts, and books for a minimum of 24 months from the date the loan agreement was signed by the borrower, or longer if required by federal law:

- (a) all loan documents signed by or given to the borrower;
- (b) all loan application documents;
- (c) all records of payments made by the borrower, including the date and amount of the payment;
- (d) account files detailing the application of borrower payments to interest, principal, and other fees;
- (e) account files recording the accrual of interest updated every 30 days;
- (f) copies of loan renewal agreements and disclosures;
- (g) copies of paid loan agreements;
- (h) invoices for repossession, towing, and storage of titled personal property;
- (i) an accurate statement or photograph that documents the condition of the titled personal property after repossession but before sale; and
- (j) the bill of sale of repossessed titled personal property. (History: 31-1-802, MCA; IMP, 31-1-815, 31-1-821, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1416 EMPLOYEES' CHARACTER AND FITNESS (1) Licensees are responsible for conducting appropriate background checks on all new employees hired after May 1, 2006. At a minimum, each licensee shall:

- (a) require completion of employee criminal background questionnaire;
- (b) verify and document employment and personal references; and
- (c) within ten days of start of employment, request a Montana criminal records check from the Department of Justice.

(2) If the background check demonstrates any criminal convictions involving fraud or financial dishonesty or civil judgments involving fraudulent or dishonest financial dealings, the licensee cannot employ such person, or if already employed, must terminate employment.

(3) Verification of compliance with this rule shall occur during annual examinations. Licensees are required to keep accurate employment records on each employee to ensure that the department is able to verify compliance. (History: 31-1-802, MCA; IMP, 31-1-805, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06.)

2.59.1417 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY

(1) In the case of hearings concerning the issuance, suspension, revocation, or other enforcement actions pertaining to a licensee or any unlicensed entity or person, hearings and related discovery shall be conducted pursuant to the Montana Administrative Procedure Act as implemented by the Attorney General's Model Rules effective June 4, 1999.

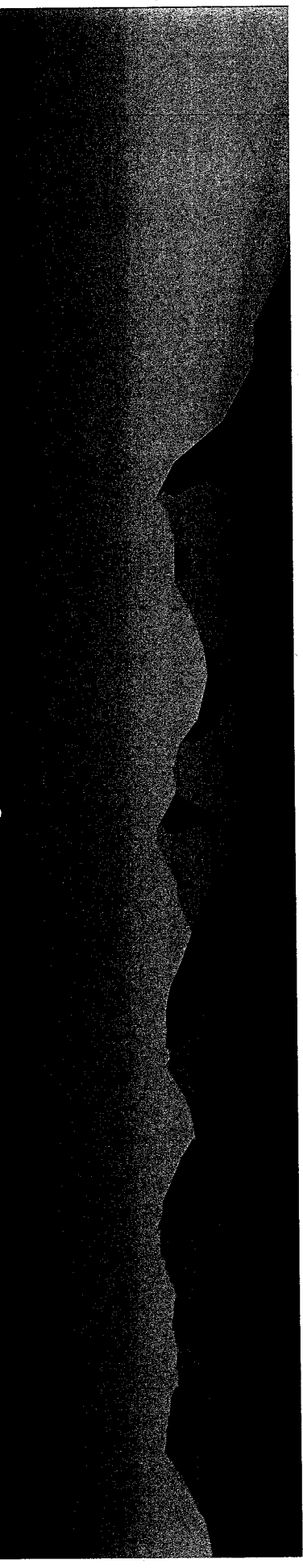
(2) The Department of Administration, Division of Banking and Financial Institutions, adopts and incorporates by reference the Attorney General's Model Rules effective June 4, 1999 as found in ARM 1.3.101 through 1.3.233, along with the accompanying forms. A copy of the Attorney General's rules may be obtained from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546. (History: 31-1-802, MCA; IMP, 31-1-811, 31-1-812, 31-1-826, 31-1-841, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.)

2.59.1418 SALE OF REPOSSESSED PROPERTY (1) The sale of repossessed titled personal property shall be conducted in a commercially reasonable manner. (History: 31-1-802, MCA; IMP, 31-1-816, 31-1-818, 31-1-820, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.)

Title Loans in Montana

Presented to the Montana Senate
Committee on Business and Labor

February 13, 2009



What is a "Title Loan"

- A way for a consumer to borrow against the equity in their motor vehicle
- It is a small loan (avg. \$500).
- For a short-term (30 days).
- Secured by the motor vehicle, which the borrower is able to continue to use
- Sole finance charge is a simple interest rate.
 - No fees, points, late penalties, hidden charges, etc.
- In Montana, these loans are regulated pursuant to MCA section 31-1-801, et. seq.

Three Primary Customers

- Credit Impaired
 - No credit history or tarnished credit history due to late or missed payments
- Have an urgent, unexpected need
 - Unusually high utility bill
 - Car repair needed in order to get to work and maintain job
- Self-employed
 - Landscapers, contractors (plumbers, drywallers, etc.) and others use truck as source of working capital. Borrow using vehicle as collateral, do job, get paid, repay loan.

Why Customers Use Title Loans

- **Simplicity** (simple rate, simple term)
- **Accessibility**
 - Small minimum loans (\$100)
 - No minimum length of time on job
 - No minimum credit history
- **Speed (20 minute transaction)**
- **Lack of Intrusiveness & Privacy**
 - No Credit Bureau or reporting
 - Discrete verification of loan application.
- **No Personal Liability**
 - If car becomes damaged or inoperable – customer walks away

Why Customers Use Title Loans (cont.)

- Many borrowing needs
 - Moving / Relocation Costs
 - Home / Vehicle Repair
 - Unexpected bills
 - Working Capital
- NOT LUXURY REASONS

Conventional Financial Institutions Leaving Consumer Needs Unmet

Issues – Rate

Why Lenders Need to Charge What They Charge

- These are costly, small balance transactions averaging \$400 - \$500
 - 36% per annum rate would average less than \$15.00 per transaction, and that's before payroll, overhead, losses and other expenses.
- Not truly “secured”
 - Vehicle is typically 10 – 12 years old, usually between 150,000 and 250,000 miles
 - Depreciating quickly
- Losses can be high – no personal liability, no other recourse besides a rapidly depreciating vehicle

Issues - Repossession

- Repossession rate is less than 5% in Montana
 - Most frequent reasons for nonpayment is that the vehicle stops working. There is no personal liability.
 - Cost of repossession, storage and sale rarely merited on small loan secured by 12 year old vehicle.
 - Return of excess sale proceeds eliminates potential for windfall profit.

Existing Montana Consumer Protections

- Licensing and Regulation. Including a customer complaint procedure.
- Required Disclosures. In loan agreement and additional pamphlet.
- No Personal Liability for the Loan. This means no judgments against borrowers after default and no garnishment of their wages. Borrower's only risk is the loss of a 10 to 12 year old vehicle. Customers often surrender keys to their broken-down vehicle and walk away.
- Right of Rescission. Customer can cancel loan without cost by end of next business day.
- Mandatory Principal Reduction. This addresses the "cycle of debt" issue. Borrower cannot indefinitely extend loan term. Borrower must begin to reduce the principal of loan. If borrower doesn't, lender must do so on borrower's behalf.
- Notice of Default. Provides notice to borrower to eliminate surprise repossessions
- Rate Cap. Montana law already limits rates that can be charged by title lenders. In fact, because rates are reduced on larger title loans, Montana already has one of the lower rates in the country. Many states have unlimited rates on title loans.

Conclusions

- Title loan customers make rational economic decisions.
- Customers choose our service to address an urgent, unexpected need or to access short-term working capital—not luxury reasons.
- Rates are typically lower than overdraft fees, late fees, and over the limit fees charged by other financial institutions and businesses.
- Title lenders provide positive economic impact (jobs, money lent is spent in community).
- The Montana Title Loan Act already provides all the consumer protections seen in other states. Other states have followed Montana's lead.
- A 36% rate cap would immediately result in lenders being put out of business and borrowers being deprived of this financial choice.